

Zoning Board of Appeals Minutes
August 24, 2021

ZBA MEMBERS	ZBA MEMBERS ABSENT	STAFF PRESENT
Jim Racheff – Chair Lawrence Aronow – Vice Chair Bob Sisson Kenneth Ying		Joe Adkins, Director of Planning & Community Development Stephen Davis, Assistant City Attorney Carreanne Eyler, Office Manager

I. ANNOUNCEMENTS: None

II. GENERAL PUBLIC COMMENT: None

III. APPROVAL OF MINUTES:

Approval of the **June 22, 2021** Zoning Board of Appeals Meeting Minutes as published:

MOTION: Mr. Sisson moved for approval of the **June 22, 2021** hearing minutes.

SECOND: Mr. Ying.

VOTE: **3-0.** (Mr. Aronow abstained)

IV. PUBLIC HEARING-SWEARING IN:

“Do you solemnly swear or affirm that the responses given, and statements made in this hearing before the Zoning Board of Appeals will be the whole truth and nothing but the truth.” If so, answer “I do”.

V. CONTINUANCES:

A. ZBA21-764CU- Conditional Use – 221 Shorebird Street

MOTION: Mr. Sisson moved for approval of a 30-day continuance to the September 28, 2021 Zoning Board of Appeals hearing.

SECOND: Mr. Aronow.

VOTE: **4-0.**

VI. OLD BUSINESS:

B. ZBA21-892CU- Conditional Use – 6129 Butterfly Lane

Lawrence Bathaung who resides at 6320 Butterfly Lane stated that the distance from the property line is incorrect. He also feels that the monopole being placed in a park will be an eye sore. He concluded that on the picture representation is not accurate.

Jon Carr who resides at 6320 Butterfly Lane asked why the applicant chose this specific location compared to other locations, why not put it where the old water tower was. He has concerns of the fall zone and a decrease in property value.

MOTION: Mr Sission made a motion to approve the conditional use request for ZBA21-21-892CU, a telecommunications facility at 6129 Butterfly Lane finding that:

1. The proposed use is in harmony with the Economic Development and Land Use Elements of the 2010 Comprehensive Plan and based on compliance with the applicable criteria of Section 866 of the Code, is also in harmony with the purpose and intent of the Land Management Code.
2. Based on the documentation provided by the Applicant, the characteristics of the use and its operation on the property in question and in relation to adjacent properties will not create any greater adverse impact than the operation of any permitted use not requiring conditional use approval.
3. The proposed use complies with the requirements set forth in Section 866, *Telecommunications Facilities*, as follows:
 - a. The Applicant has provided documentation to demonstrate that the proposed structure will not be a hazard to adjacent properties or constitute a nuisance because of radio interference or other potentially disruptive activity associated with operation of the tower or antenna.
 - b. The applicant is requesting a modification to the setbacks to be only 85' instead of the 165' feet. The applicant has provide a letter from the manufacture that the monopole will collapse on itself and has a fall zone of less than 20 feet.
 - c. The setbacks for the ground equipment associated with the structure will meet the requirements of the LMC and fencing and landscaping will be provided to adequately screen the facility.
 - d. The Applicant has demonstrated that there is not a technically suitable space available on an existing communications tower within the geographic area that the new site is to serve.
 - e. The Applicant has demonstrated that the new monopole will not adversely impact any historic vistas or gateways to the City.
 - f. Prior to building permit submission, the Applicant will be required to demonstrate that the athletic lighting structure is strong enough to support the equipment proposed and that the planned installation will be structurally sound.
 - g. The Applicant has provided documentation to demonstrate that the proposed carriers antenna meet the radio frequency safety standards as established by the FCC by a Radio Frequency Engineer.
 - h. The Applicant has provided the signed lease agreement with the property owner, city of Frederick, meeting the standards of subsection 866(a)(9).
 - i. The Applicant acknowledges and commits to compliance with the applicable local, state and federal laws, rules and regulations.
 - j. The Applicant has provided the agent authorizations necessary to file the application for conditional use approval.
 - k. The proposed structure exceeds the maximum height permitted in residential districts, however, the Property is not zoned residentially and the Applicant has demonstrated that its visual profile and appearance would make no substantial change in the character of the area.

With the following conditions:

1. That the Zoning Board of Appeals approves the modification to Section 866 (a) (2) to reduce the setback distance for the monopole from 165' to 85'. The applicant has provided a letter from the manufacturer indicating that that the fall radius is 20'. The applicant is showing an 85' setback for the monopole.

2. That prior to the submission of a final site plan, the Applicant must provide documentation of no impact from the FAA and MAA.
3. That with subsequent building permit applications for new antennas by other carriers, a statement by a Radio Frequency Engineering certifying that the equipment will not result in radio interference or other potentially disruptive activity in association with the operation of the antenna be provided and that this requirement be noted on the final site plan.
4. That prior to the submission of a building permit, the Applicant must submit a sealed statement from a structural engineer certifying the safety of the proposed structure to support the five carriers and that this requirement is noted on the final site plan.

SECOND: Mr. Aronow.

VOTE: 4-0.

VII. NEW BUSINESS: None

VIII. BOARD BUSINESS: None

IX. ITEMS ADDED TO AGENDA:

Zoning Determinations Completed:

- ZBA21-516ZD – 64 Thomas Johnson Drive
- ZBA21-575ZD – 425 Navaho Drive
- ZBA21-580ZD – 140 Thomas Johnson Drive
- ZBA21-582ZD – 1 Catoctin Avenue
- ZBA21-590ZD – 330 Catoctin Avenue
- ZBA21-603ZD – 241 E. 4th Street
- ZBA21-606ZD – 8490 Progress Drive

Meeting adjourned approximately at 9:20 p.m.

Respectfully Submitted,
Carreanne Eyler
Office Manager